IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY FOURTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

-

WRIT PETITION NO : 505 of 2005

Between:

P. Vishwanath, s/o. P. Bhimaiah, Fair Price Shop Dealer,
Garladinne (V), Garldinne (M), Anantapur District.

..... PETITIONER

AND

1 The Joint Collector, Anantapur, Anantapur District.
2 the Revenue Divisional Officer, Anantapur, Anantapur District.
3 The Mandal Revenue Officer, Garladinne, Anantapur District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to Issue a writ, order or direction more particularly one in the nature of writ of Mandamus, declaring the action of 1st respondent in not granting stay pending statutory appeal before him filed against the orders of the 2nd respondent passed in Rc.No. D1/CS/1833/2004 dt. 5.1.2005 and the action of the 2nd respondent in not considering explanation in enquiry initiated by him as illegal arbitrary and consequently direct the respondents to continue the petitioner as FP Shop dealer of Garla dinne Village, Garladinne (M) of Anantapur District, pending disposal of the enquiry before the 2nd respondent.

Counsel for the Petitioner:MR.K.SITARAM

Counsel for the Respondents 1 to 3: GP FOR CIVIL SUPPLIES

The Court, at the stage of admission, made the following :

ORDER:

The authorization of the petitioner was suspended by the 2nd respondent through his proceedings, dated 05.01.2005. Aggrieved thereby, petitioner preferred an appeal before the 1st respondent together with an application for stay. The 1st respondent rejected the application for stay. Hence, this writ petition.

Heard the learned counsel for the petitioner and the learned Government Pleader for Civil Supplies.

The 2nd respondent issued a show cause notice, dated 08.12.2004, to the petitioner, wherein three charges were framed against him. On the ground that no explanation was submitted by the petitioner within the stipulated time, the 2nd respondent suspended the authorization of the petitioner. The appellate authority rejected the application for stay in the appeal preferred against the order of suspension.

In very nature of the things, the 1st respondent is not expected to pass any interim orders. The order of suspension was only on the ground that the petitioner did not file explanation to the show cause notice. The occasion for verification of the truth of the charges, or the validity of explanation of the petitioner did not arise. The only question, that can be canvassed before the 1st respondent is as to whether there was any justifiable reason which prevented the petitioner from submitting the explanation. In case, the 1st respondent is convinced that the petitioner was prevented by a *bona fide* cause in submitting the explanation, he may consider the feasibility of permitting the petitioner to submit the explanation directing the 2nd respondent to consider the matter, afresh. Such a measure can only take place in the final disposal of the appeal and not as a measure, pending disposal of the same. Hence, this Court is not inclined to interfere in the matter.

The writ petition is disposed of, upholding the order passed by the 1st respondent rejecting the application for stay. However, he is directed to pass appropriate orders in the appeal itself, within a period of four weeks from the date of receipt of a copy of

this order. There shall be no order as to costs.

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(L.NARASIMHA REDDY,J)

Date: 24-01-2005

Note: Office to issue c.c.

in three days.

(B/o.)

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To

1 The Joint Collector, Anantapur, Anantapur District.
2 The Revenue Divisional Officer, Anantapur, Anantapur District.
3 The Mandal Revenue Officer, Garladinne, Anantapur District.

4 2CCs to the Government Pleader for Civil Supplies, High Court of A.P., Hyderabad. (OUT)

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